

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chamber, City Hall, on the day above written in the Council Chamber, City Hall.

Present:	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Tom Boyajian	Council President

Dan Hobbs, City Manager
Andy Souza, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Reverend Agustin Hoyer III, Jubilee Apostolic Tabernacle, gave the invocation, and Fresno Rage Softball Team Member Courtney McClusky led the Pledge of Allegiance to the Flag.

PROCLAMATION OF FRESNO RAGE 18 AND UNDER SOFTBALL TEAM DAT - COUNCILMEMBER PEREA

CERTIFICATES TO THE PRIDE TEAM FOR THE SUMMER QUARTER

The above proclamation and certificates were read and presented and a reception was held immediately following to honor the PRIDE Team.

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RECESS - 8:58 A.M. - 9:15 A.M.

APPROVE CITY COUNCIL MINUTES OF JULY 15, 2003

On motion of Acting President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of July 15, 2003, approved, as amended, as follows:

(1) Page 141-313, after the lunch recess, 2nd paragraph, adding the italicized wording to the first sentence: “Acting President Castillo stated Sacramento’s budget situation was still unclear and expressed his concern and spoke in opposition *to the bond and various issues at length and stressed if any property owner refuses to sell their property Council will be asked to impose eminent domain.*”

(2) Page 141-327, 1st paragraph, last sentence, adding the italicized wording to the first sentence: “..., and Mr. Hobbs stating he did not want any association with turning over *the actual management control and ownership of* over \$150 million of assets to a third party.”

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APPROVE JOINT POWERS FINANCING AUTHORITY MINUTES OF JULY 15, 2003

On motion of President Boyajian, seconded by Councilmember Duncan, duly carried, RESOLVED, the JPFA Minutes of July 15, 2003, approved as submitted.

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REQUEST FOR TRAY MEMO FROM STAFF ON CONCEPT OF LIMITING AMENDMENTS TO THE 2025 FRESNO GENERAL PLAN TO THREE (3) TIMES A YEAR AS A GROUP - COUNCILMEMBER DUNCAN

Request made.

FORM FROM LEAGUE OF CALIFORNIA CITIES ON "KEEP LOCAL TAXES LOCAL" - COUNCILMEMBER CALHOUN

Councilmember Calhoun noted he passed out the form to Council, spoke to a workshop he attended and to the State's budget situation, and advised this form would bring a State ballot measure in 2004 relative to State budget and leaving cities and counties alone, and encouraged Council to review the form and added he sent in \$100 to support the process stating the League was on the right track.

ISSUE OF RUBEN V. CITY OF BURBANK RELATIVE TO INVOCATIONS - COUNCILMEMBER CALHOUN

Councilmember Calhoun spoke to the court case, advised information he received from staff indicated 21 out of 60 cities surveyed did not have invocations, and stated he felt if Fresno did not take some action the city would be open to a lawsuit, with City Attorney Montoy speaking briefly to the issue and advising she would be providing recommendations to the Council.

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APPROVE AGENDA:

(2-B) COUNCIL CONSIDERATION, RECONSIDERATION, AND OTHER ACTION AMENDING AND MODIFYING RESOLUTION NO. 2003-211 (MASTER FEE SCHEDULE) RELATING TO FIRE DEPARTMENT INSPECTION FEES, AS REQUESTED BY MAYOR AUTRY ON JULY 10, 2003 (REQUEST TO CONTINUE TO JULY 29, 2003)

1. ACTION #1 - A-1 - RECONSIDER ADOPTION OF THE \$155.00 FIRE DEPARTMENT INSPECTION FEE (*IF BUSINESS DOES NOT CORRECT VIOLATION PRIOR TO RE-INSPECTION*)
2. ACTION #1 - A-2 - RECONSIDER ADOPTION OF A \$53.00 FIRE DEPARTMENT 1ST INSPECTION FEE

(2-C) COUNCIL CONSIDERATION, RECONSIDERATION AND OTHER ACTION AMENDING AND MODIFYING SPECIFIC LINE ITEMS OF RESOLUTION NO. 2003-209 (ANNUAL APPROPRIATION RESOLUTION) AS REQUESTED BY MAYOR AUTRY ON JULY 10, 2003 (REQUEST TO CONTINUE TO JULY 29, 2003)

1. ACTION #9-B - RECONSIDER APPROPRIATING \$1.2 MILLION IN CMAQ MATCHING FUNDS TO PUBLIC WORKS CAPITAL
2. ACTION #2-B & #3 - RECONSIDER APPROPRIATING \$230,900 IN CDBG FUNDS TO THE DOWNTOWN COMMUNITY DEVELOPMENT CORPORATION PROJECT
3. ACTION #2-C - RECONSIDER APPROPRIATION \$341,000 TO CONVENTION CENTER CAPITAL IMPROVEMENT PROJECT
4. ACTION #2-D - RECONSIDER APPROPRIATING \$1,409,100 TO NEIGHBORHOOD CONCRETE AND STREET REPAIR PROJECT
5. ACTION #4-B - RECONSIDER APPROPRIATING \$300,000 TO THE ECONOMIC DEVELOPMENT CORPORATION
6. ACTION #5-B - RECONSIDER APPROPRIATING \$56,300 TO READY PROGRAM
7. ACTION #5-E - RECONSIDER APPROPRIATING \$155,300 TO THE HUMAN RELATIONS COMMISSION, WITH ONE STAFF ASSISTANT
8. ACTION #5-F - RECONSIDER FUNDING THE READY PROGRAM WITH \$37,800
 - a. ACTION #5-G - AMEND THE AAR, RECOGNIZING \$200,000 IN REVENUE FROM PROCEEDS OF SALE OF POLICE HELICOPTER, AND APPROPRIATING \$200,000 TO THE READY PROGRAM
9. ACTION #6-B - RECONSIDER APPROPRIATING \$75,200 TO THE FILM COMMISSION
10. ACTION #6-B - RECONSIDER APPROPRIATING \$25,000 TO READY PROGRAM
11. ACTION #7-B - RECONSIDER APPROPRIATING \$500,000 FOR THE DAP AND LIHP PROGRAMS
12. ACTION #8-B - RECONSIDER APPROPRIATING \$22,000 TO THE CITY MANAGER'S PUBLIC RELATIONS ACCOUNT

(3-A) CONSIDER COUNCIL OVERRIDE OF LINE ITEM VETOES REGARDING RESOLUTION NO. 2003-209 (ANNUAL APPROPRIATION RESOLUTION) SUBMITTED BY MAYOR AUTRY ON JULY 10, 2003 - COUNCILMEMBER DAGES (REQUEST TO CONTINUE TO JULY 29, 2003)

1. ACTION #2-A - APPROPRIATE \$2,139,000 OF NEIGHBORHOOD INFRASTRUCTURE TO FUND COUNCIL PROJECTS, DIVIDED EQUALLY AMONG THE SEVEN COUNCIL DISTRICTS
2. ACTION #4-A - APPROPRIATE \$300,000 TO THE ECONOMIC DEVELOPMENT CORPORATION CONTINGENCY (FOR LINE

ITEM 53302)

3. ACTION #5-A - APPROPRIATE \$56,300 TO GENERAL CITY PURPOSE CONTINGENCY
4. ACTION #5-D - MAINTAIN HUMAN RELATIONS COMMISSION IN CITY MANAGER'S OFFICE WITH A BUDGET OF \$193,100. STAFFING TO REMAIN UNCHANGED FROM FY 2002-2003
5. ACTION #6-A - APPROPRIATE \$100,200 TO THE FIRE DEPARTMENT BUDGET (FROM UNFUNDED FILM COMMISSION)
6. ACTION #7-A - APPROPRIATE \$500,000 FROM DAP AND LIHP TO THE MINOR REHABILITATION PROGRAM
7. ACTION #8-A - APPROPRIATE \$22,000 TO THE FIRE DEPARTMENT BUDGET (FROM UNFUNDED LINE ITEM 53303 FOR PUBLIC RELATIONS AND INFORMATION IN THE CITY MANAGER' OFFICE)
8. ACTION #9-A - APPROPRIATE \$1.2 MILLION IN GENERAL FUND CONTINGENCY FOR CMAQ MATCHING FUNDS

Councilmember Dages requested the above items be heard this date as scheduled stating the July 29th agenda was going to be very full and the meeting very long if the items are continued, and added a special meeting might even have to be scheduled citing the upcoming August vacation schedule. City Manager Hobbs noted the request to continue was originally made because the Mayor was going to be out of town, stated although the Mayor cancelled his plans because this issue was scheduled and was in town he was still requesting the matter be continued as he wanted the necessary staff to be present to respond and also because of a legal opinion that was just received that created a new distinction (that staff was not aware of) relative to the difference between a traditional reconsideration and a Charter reconsideration, and added time was needed to digest the significance of this new legal opinion and again requested the matters be continued.

Discussion ensued, Assistant City Manager Souza stated the afternoon portion of the July 29th agenda would be reserved solely for these items, and brief discussion continued on whether ½ day would be enough time to deal with them. **(2 - 0)**.

A motion of Councilmember Dages, seconded by Acting President Castillo, to hear Items 2-B, 2-C and 3-A this date as scheduled failed, by the following vote:

Ayes	:	Castillo, Dages, Perea
Noes	:	Calhoun, Duncan, Sterling, Boyajian
Absent	:	None

The items were continued to July 29, 2003, as requested.

(10:00 A.M.) HEARING TO CONSIDER ORDINANCE FOR THE CLOSURE OF CITY ALLEYS

1. BILL - ADOPTING RULES AND REGULATIONS RESTRICTING VEHICULAR OR PEDESTRIAN TRAFFIC THROUGH ALLEYS

Removed from the agenda by Councilmember Perea who advised some issues still needed to be worked out. Brief discussion ensued. Councilmember Perea briefly left the meeting at 9:44 a.m. City Manager Hobbs stated staff would meet with Councilmembers Dages and Perea to answer any questions or concerns.

On motion of Councilmember Duncan, seconded by Acting President Castillo, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Sterling, Boyajian
Noes	:	None
Absent	:	Perea

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(1-A) RESOLUTION NO. 2003-230 - AUTHORIZE THE PURCHASE OF AN AERIAL LADDER TRUCK BY THE FIRE DEPARTMENT AND WAIVE COMPETITIVE BIDDING BASED ON URGENT NECESSITY

1. * RESOLUTION NO. 2003-231 - 7TH AMENDMENT TO AAR APPROPRIATING \$44,100 OF LOAN PROCEEDS TO THE FIRE DEPARTMENT TO BE USED FOR THE LEASE PAYMENTS ON A REPLACEMENT AERIAL LADDER TRUCK

Barbara Hunt, 2475 S. Walnut, spoke in opposition to the waiving of competitive bidding. Acting President Castillo briefly left the meeting at 9:46 a.m.

(1-B) AUTHORIZE THE SUBMISSION OF AN APPLICATION TO PACIFIC GAS AND ELECTRIC (PG&E) COMPANY FOR A LOCAL ECONOMIC DEVELOPMENT GRANT

(1-C) RESOLUTION NO. 2003-232 - INTENT TO ANNEX FINAL TRACT NO. 4974 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 54

(1-D) AWARD A THREE-YEAR CONTRACT WITH PROVISIONS FOR TWO ONE-YEAR EXTENSIONS TO CALIFORNIA INDUSTRIAL SERVICES OF FRESNO IN THE AMOUNT OF \$202,070.96 FOR SECURITY SERVICES AT CITY HALL AND DOWNTOWN LOCATIONS

(1-E) RESOLUTION NO. 2003-233 - AUTHORIZING AN APPLICATION TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR A LOCAL GOVERNMENT PUBLIC EDUCATION AND AMNESTY DAY GRANT, AND AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO SIGN ON BEHALF OF THE CITY

(1-F) * RESOLUTION NO. 2003-234 - 5TH AMENDMENT TO AAR 2003-209 APPROPRIATING \$1,348,100 FOR CONTINUANCE OF THE U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) FOR THE COPS TECHNOLOGY INITIATIVE COMPUTER UPGRADE AND SPECIFIC PROJECT GRANTS

(1-H) SELECTION AND APPROVAL OF DOWNTOWN PARKING PROGRAM (OPTION 3)

1. RESOLUTION NO. 2003-235 - AUTHORIZING CHANGES IN THE OPERATIONAL HOURS FOR PARKING METERS, GARAGES AND LOTS IN THE MALL SPECIFIC PARKING METER ZONE AND THE NON-MALL SPECIFIC PARKING METER ZONE (IMPLEMENTING OPTION 3)

(1-I) APPROVE INCREASE TO WORKERS' COMPENSATION SELF-INSURED RETENTION

On motion of Councilmember Dages, seconded by Acting President Castillo, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Sterling, Boyajian
Noes	:	None
Absent	:	Castillo, Perea

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The City Council recessed at 9:47 a.m. and convened in joint session with the Redevelopment Agency. Acting President Castillo returned to the meeting.

(8:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

APPROVE AGENCY MINUTES OF JULY 15, 2003

On motion of Councilmember Sterling, seconded by Acting President Castillo, duly carried, **RESOLVED**, the Agency minutes of July 15, 2003, approved as submitted.

(“A”) CONSIDER APPOINTMENTS TO THE BLUE RIBBON COMMISSION TO CONDUCT A REVIEW OF CURRENT CITY POLICIES AND PROCEDURES RELATING TO THE PRESERVATION OF HISTORIC STRUCTURES AND BUILDINGS IN THE CITY AND TO MAKE RECOMMENDATIONS FOR IMPROVING HISTORIC PRESERVATION POLICIES

included in the staff report but the historic group's appointments were not ready at this time and would be brought back. Councilmember Perea returned to the meeting at 9:50 a.m.

Barbara Hunt, 2475 S. Walnut, spoke to the need to have a member of the public on the commission.

Councilmember Calhoun reiterated his prior concern with the phrase that allows for a recommendation from the commission relative to moving the Armenian Church stating it was not appropriate as Council's direction was only to save the facade and erect it elsewhere, and added if the commission comes to Council with a recommendation to move the church at the city's expense it would be a potential public relations nightmare. Acting President Castillo questioned who recommended the city appointees (with Agency Director Fitzpatrick responding), stated he had someone in mind and would not support staff's recommendation, and added if the recommendations failed he would discuss his proposed appointee with staff. Upon request of Councilmember Sterling, City Attorney Montoy explained the issue of moving the Armenian Church clarifying Council would not be obligated to amend its prior decision and that looking at something more than saving the facade was a way to settle the litigation. Upon question of Acting President Castillo Ms. Montoy stated the City was not obligated financially to do anything more than move the facade.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, David Yancey, John Moffat and Warren Thompson appointed to the Blue Ribbon Commission, by the following vote:

Ayes	:	Boyajian, Dages, Perea, Sterling, Duncan
Noes	:	Calhoun, Castillo
Absent	:	None

(“B”) TAKING CERTAIN ACTIONS RELATING TO FINANCING PUBLIC IMPROVEMENTS FOR ROEDING BUSINESS PARK REDEVELOPMENT PROJECT AREA - MARKS AVENUE IMPROVEMENTS INCLUDING WATER, SEWER AND STORM DRAIN LINES, CANAL RELOCATIONS, RELATED BRIDGES, WATER SUPPLY WELL, AND LANDSCAPED BUSINESS PARK ENTRANCE AND IDENTIFICATION SIGN - PHASE III PROJECT

1. * JOINT RESOLUTION NO. 2003-236 / 1633 - APPROVING (1) A PROMISSORY NOTE FROM THE AGENCY TO THE CITY FOR \$1,500,000, AND (2) A LOAN AND REIMBURSEMENT AGREEMENT BETWEEN THE AGENCY AND CITY FOR PHASE III PROJECT COSTS, AS AMENDED

2. JOINT RESOLUTION NO. 2003-237 / 1634 - AUTHORIZING THE APPLICATION TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC BANK (I BANK) FOR LEASE FINANCING TO ASSIST THE PHASE III PROJECT COSTS AND CERTAIN OTHER MATTERS IN CONNECTION THEREWITH, AS AMENDED (* Note - originally two resolutions combined into one)

3. AGENCY RESOLUTION NO. 1635 - DECLARING AGENCY INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS

Redevelopment Administrator Murphey advised the resolutions had been slightly revised and had been distributed and reviewed the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in opposition stating the Master Settlement Agreement had not been signed by Judge Kane.

Lengthy discussion ensued with Ms. Murphey, Controller Quinto, City Manager Hobbs and Agency Director Fitzpatrick clarifying issues and/or responding to questions and/or comments of Acting President Castillo, Councilmember Calhoun and President Boyajian relative to the total amount of funds being borrowed, criteria the State uses to determine the amount to be loaned, if a marketing plan was in place, what the \$1.5 million city loan was backed by, interest rate and total cost over life of the loan, where staff expects the park to be at the end of the year and when job generation can be expected, meaning of Schedule A and what remains to be done, request for the RDA, the EDC and the city's Economic Development Department combine a report on a RBP marketing plan, Councilmember Calhoun stating he felt a marketing plan was premature stating at issue at this time was money and getting the park built out, Mr. Hobbs speaking to the upcoming Regional Jobs Initiative, and continued questioning relative to total park acreage, if additional infrastructure would be needed in the future, and if an agent or contractor would be located at the park.

A motion and second was made to approve staff's recommendation. City Clerk Klisch noted Resolutions 2 and 3 were combined into one resolution and an amended Resolution #1 had been submitted. Chair Duncan spoke briefly stating this was nearing final financing and added once it was known for certain the project would be completed marketing could be focused upon. Councilmember Calhoun briefly clarified issues relative to the unemployment State of Emergency and time line to report back on other initiatives to meet the unemployment problem.

On motion of President Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Joint Resolution Nos. 2003-236/1633 and 2003-237/1634 and Agency Resolution No. 1635 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Dages, Perea, Sterling, Duncan
Noes : None
Absent : None

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The joint bodies adjourned their meeting at 10:21 a.m. and the City Council reconvened in regular session.

(10:15 A.M.) STATUS REPORT BY CABLE CONSULTANT AND REQUEST APPROVAL OF WORK PLAN AND CONTRACT AMENDMENT FOR CABLE FRANCHISE NEGOTIATIONS

City Manager Hobbs gave brief opening remarks stating this was a very important issue, noted in terms of revenue stream to the city it was worth \$20 million, and added also of importance was the issue of technology infrastructure and its potential to help the city. Assistant Finance Director Lynch gave an overview of the issue and spoke briefly to the franchise renewal process that was undertaken, and clarified approval of the contract amendment was being requested this date.

Sue Buske, President, The Buske Group, **(3 - 0)** gave an informational presentation on cable franchise renewal including franchise agreements, key elements of renewal, and renewal opportunities, and concluded stating Fresno had a big opportunity in front of it in terms of updates and changes noting the franchise had not really been looked at in any great depth for about 30 years.

Barbara Hunt, 2475 S. Walnut, spoke in opposition to the work plan.

Councilmember Calhoun spoke briefly to comments he heard last week at the League meeting from other cities on their communication systems and noted they were far better than Fresno's, and stated he was supportive of what staff was doing and comfortable with the process and made a motion to approve the contract amendment.

Mr. Lynch, Mr. Hobbs, City Attorney Montoy, Ms. Buske and Assistant City Manager Souza responded to questions and/or comments of Acting President Castillo, Councilmember Duncan and President Boyajian relative to the original RFP cost, if a three-year agreement was being offered, cost for years 2004 and 2005, if negotiations would be completed by the December 31st expiration date, if the firm selected was a law firm and if attorneys were involved in negotiations, concern with the level and complexity of negotiations, if the city attorney was involved and what her role was, request for the city attorney to be involved, length of time expected for negotiations, if a mediator is ever involved, if an RFRP is like a best and final offer, how cable TV differs from satellite TV, if staff felt a system/process was in place to keep citizens informed and felt comfortable with the public involvement, the City requiring certain technology and where the line is drawn on City interference, if the City was publishing any press releases, if vendors would be solicited, other cities that have used The Buske Group's services, if there was a cap on the franchise fees the City can collect, if the City could assess 5% of the cable company's gross income and importance of knowing what they earn, if some cities contracted with multiple cable companies, amount of fees the City will receive over the life of the agreement, need for full disclosure of Comcast's books and if the City had subpoena power to find out their earnings, and the findings of the telephone survey.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the contract amendment for Cable Franchise Negotiations hereby approved, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(10:30 A.M.) PRESENTATION BY COALITION FOR COMMUNITY TRAILS - COUNCILMEMBER CALHOUN
1. COUNCIL DISCUSSION AND DIRECTION TO STAFF AS NEEDED TO ASSIST WITH TRAIL PROJECTS IN THE CITY

Councilmember Calhoun advised he scheduled the item for informational purposes to help Council decide how to use the \$40,000 that was placed into contingency during budget and which would be talked about in one week

John Alsdorf, Chairman of the Board, Coalition for Community Trails, spoke to the purpose of the Coalition, their charge, and project plans, and upon question of Councilmember Perea stated any funds received from the city would be leverage/match funds.

There was no further discussion.

(11:00 A.M.) PUBLIC COMMENT PERIOD - SCHEDULED COMMUNICATIONS:

1. PRESENTATION BY FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA) EMPLOYEES REGARDING CONCERNS - ACTING PRESIDENT CASTILLO

Alex Correa, FCEA representative, stated employees thought the matter would be heard about 12:00 noon and requested a delay. Brief discussion ensued on delaying the matter, number of speakers that would be allowed to speak, time allotted, concern with scheduling something at the noon hour, and **(4 - 0)** accommodating employees. By Council consensus the matter was scheduled for approximately 12:00 noon with 3 to 5 minutes allotted.

(11:15 A.M.) CONTESTED CONSENT CALENDAR ITEMS:

(1-G) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH W. SOLUTIONS, INC., A HEALTH PROMOTION COMPANY, REGARDING A DEPARTMENT FITNESS PROGRAM

Councilmember Calhoun stated he pulled the item from consent as he wanted staff to speak to the program's success.

Lt. Keith Foster spoke to the program and how it benefits officers, read into the record a letter dated 3/6/03, from a police officer sent to the Wellness Coordinator relative to the serious health issues that were discovered while he was in the program and how the program impacted him, and concluded stating the program worked.

On motion of Councilmember Calhoun, seconded by Acting President Castillo, duly carried, **RESOLVED**, the Chief of Police authorized to enter into an agreement with W. Solutions, Inc., for the purposes of continuing a fitness program for the Police Department, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

(3-B) DIRECT CITY ATTORNEY TO DRAFT AN ORDINANCE THAT WOULD PERMIT THE POLICE DEPARTMENT TO SEIZE AND SELL VEHICLES USED DURING THE COMMISSION OF SOLICITING PROSTITUTES - COUNCILMEMBER PEREA

Councilmember Perea spoke to the problem of prostitution; stated he wanted Council to accept Oakland's ordinance and have Fresno's parallel it because (1) Oakland has called it a success in terms of revenue generated and the drop in prostitution, and (2) because the work has already been done, the ordinance was the toughest, had been tested and proven, and had been taken all the way to the State Supreme Court and won; clarified his fear, if Fresno tries to do a difference version of one of the ordinances, was the city may open itself up to a lawsuit by ACLU and explained; stressed this was about removing blight from neighborhoods and sending a strong message to the community that the city will no longer put up with individuals soliciting prostitutes, and made a motion to direct the city attorney to draft an ordinance based on Oakland's ordinance, which motion was seconded by Acting President Castillo and later acted upon.

City Attorney Montoy stated direction was not necessary as her office had been working with the police department on an ordinance that does exactly what Councilmember Perea was proposing and was patterned after Oakland's ordinance, and advised language was just added that would also allow for impoundment of cars for illegal dumping. Councilmember Perea stated the question was what the ordinance would look like and reiterated his motion was for Fresno's to be exactly like Oaklands' because it had already been taken to the Supreme Court and won, and reiterated if Fresno's deviated from Oaklands' the city would open itself up to a lawsuit. Ms. Montoy stated the ordinance was patterned exactly after Oaklands' and provided greater safeguards and greater due process.

Discussion ensued with Ms. Montoy and Deputy Chief Fifield responding to questions/comments of Councilmembers Calhoun, Dages and Sterling relative to the impression that the police department knew nothing about this issue, Councilmember Calhoun expressing concern with the ordinance and questioning why one group was being singled out and stating everyone had their own pet crimes, Ms. Montoy clarifying the issue of Oakland's ordinance having "been tested", if the ordinance could be amended relative to (1) going after cars worth only \$500 (and spending \$4,000 to \$5,000 to seize them) and (2) remove language that money would go to the district attorney, concerns relative to how leased city, county and state, and borrowed or stolen vehicles would be dealt with, and if the police department reviewed all the other ordinances.

Barbara Hunt, 2475 . Walnut, spoke in opposition to the proposed ordinance.

Lengthy discussion continued. Councilmember Duncan stated he had very serious concerns with the process, with the lack of back-up material on Oaklands' success/statistics relative to the drop in prostitution, and with the motion being very specific to adopt Oakland's ordinance with no staff report; stated Fresno's Prostitution Abatement and Rehabilitation Program (PARP) was very successful and explained; stated impounding vehicles was ok but taking them was very extreme; stated Oakland was measuring their success by the amount of money they were collecting; requested the motion be withdrawn and staff continue on their track; and stated he was not opposed to the concept, the issue needed to be dealt with cautiously, and spoke to the economic issue involved. Councilmember Sterling stated there was a lot of prostitution and illegal activity in her district and she wanted to be part of the process, and requested Councilmember Perea postpone his motion and work with staff in the final 60 days before they bring back their ordinance, and spoke to the need to be considerate of those council members whose districts will be affected most by the ordinance. Mr. Fifield and Ms. Montoy responded to questions of Acting President Castillo relative to whether the police department would have any input if the motion is approved this date, what staff was working on in the ordinance that was specific to Fresno (**5 - 0**), and if the ordinance would be back to Council for final approval. Acting President Castillo stated his primary motivation for the ordinance was removing blight from his district and not about generating revenues.

President Boyajian noted the city attorney and police department were going after the same purpose as Councilmember Perea, stated he would support this if everyone was going in the same direction, and pointed out legal staff tells Council whether ordinances are good or bad and questioned what Councilmember Perea's purpose was and if city attorney/police staff would be included. Councilmember Perea stated he wanted staff to return with exactly what was done in Oakland, and noting concerns amended his motion to direct staff to return with an ordinance in 60 days modeled after Oakland's.

On motion of Councilmember Perea, seconded by Acting President Castillo, duly carried, **RESOLVED**, the city attorney directed to draft an ordinance that would permit the police department to seize and sell vehicles used during the commission of soliciting prostitutes with the ordinance to be modeled after the city of Oakland's ordinance, by the following vote:

Ayes	:	Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	Calhoun
Absent	:	None

(11:00 A.M.) PUBLIC COMMENT PERIOD - SCHEDULED COMMUNICATIONS:

1. PRESENTATION BY FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA) EMPLOYEES REGARDING CONCERNS - ACTING PRESIDENT CASTILLO (*CONTINUED FROM EARLIER*)

Appearance made by FCEA representative Alex Correa who stated the negotiations had been going on for a long time and the employees just wanted equity and self respect and explained. There was no further discussion.

(6) PUBLIC COMMENT PERIOD - SCHEDULED COMMUNICATIONS:

1. APPEARANCE BY JOSE BARRAZA TO REQUEST COUNCIL WITHDRAW THEIR SUPPORT THAT SIDEWALK BARRIERS ARE NOT COVERED BY THE AMERICANS WITH DISABILITIES ACT

Not present when called.

2. APPEARANCE BY COSTEL CONSTANTIN FUIOREA TO DISCUSS EXTRA REVENUE FOR THE CITY'S BUDGET FOR FY 2004

Not present when called.

3. APPEARANCE BY HELEN WOODWARD TO DISCUSS A CITATION RECEIVED FOR KEEPING A NON-OPERATING VEHICLE ON PROPERTY LOCATED AT 270 N. PEACH AVENUE

Appearance made; no action taken.

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LUNCH RECESS - 12:22 P.M. - 2:03 P.M.

(2-A) * BILL NO. B-67 - RELATING TO THE PERMITTING AND REGULATION OF MOBILE VENDORS IN THE CITY OF FRESNO AND STREAMLINING THE CODE RELATING TO THE REVOCATION AND SUSPENSION OF BUSINESS PERMITS (DISCUSSED AGAIN LATER)

City Attorney Montoy gave a brief overview of the issue.

Gloria Torrez, Fresno, CA, spoke in opposition, stated the definition of vendor covered a lot of people and explained, stated there were already too many regulations, and spoke to the hardship that would be placed on the hard-working people and for the need for non-English speaking people to be informed.

Ms. Torrez, Ms. Montoy and Assistant City Manager Souza responded to questions of Councilmember Sterling relative to the required fees, if a list could be obtained of all vendors and if informational/educational meetings could be conducted, how vendors will be notified of the ordinance, and if the stipulations placed on truck vendors were still being enforced and if this ordinance would fall under that jurisdiction, with Ms. Montoy explaining the difference between mall/sidewalk vendors and private property vendors.

A motion and second was made to adopt the ordinance. Ms. Montoy and Deputy City Attorney Phelan responded to questions of Acting President Castillo relative to whether there were provisions in the ordinance to enforce city-wide, how staff would work with Fresno County on sanitation issues, lack of City say relative to health hazards and what the City will do to insure vendors are sanitary, Fresno County's on-going inspection process and concern as mobile vendors are all over the city, and cost and process to take a vehicle.

It was determined to hold the item over to after closed session to have appropriate staff present to answer questions.

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(4) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. LORETTA BATTLE V. CITY OF FRESNO
2. CITY OF FRESNO V. GARFIELD PARK HIGHLANDS, ET AL. (EDWARD; RICCHIUTI)

(B) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - CASE NAME: CLAIM OF ROBERT RICH

(C) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATION: FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA)

The City Council met in closed session in Room 2125 at the hour of 2:20 p.m. to consider the above matters and reconvened in regular open session at 3:32 p.m.

(2-A) * BILL NO. B-67 - ORDINANCE NO. 2003-67 - RELATING TO THE PERMITTING AND REGULATION OF MOBILE VENDORS IN THE CITY OF FRESNO AND STREAMLINING THE CODE RELATING TO THE REVOCATION AND SUSPENSION OF BUSINESS PERMITS (CONTINUE FROM EARLIER)

Proceedings continued. Code Enforcement Manager Villa and Deputy City Attorney Phelan responded to questions of Councilmember Sterling and Acting President Castillo relative to how vendors will be notified of this ordinance, who would be bonded, how the health department and city will monitor vendors and how they will know inspections have taken place, concern with potential health crisis, if there will be leniency with vehicle impoundments (due to vendors' minimal earnings), if carts will be returned at no additional cost once properly permitted, how vendors dealing with kids in schools will be monitored, and what can be done about ice cream vendors with loud obnoxious songs.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Bill No. B-67 adopted as Ordinance No. 2003-67, by the following vote:

Ayes	:	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	:	None
Absent	:	None

CLOSED SESSION ANNOUNCEMENT

City Attorney Montoy announced in the matter of the Personal Injury Claim of Robert Rich for \$1 million, the Council voted 6-0-1 to reject the claim with Councilmember Calhoun absent.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:41 p.m. having arrived and hearing no objections, President Boyajian declared the special meeting adjourned.

APPROVED on the _____ day of July, 2003.

ATTEST:

Tom Boyajian, Council President

Yolanda Salazar, Assistant City Clerk

